Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	

COMMENTS OF
THE BLACKFOOT TELECOMMUNICATIONS GROUP

SUMMARY

The Blackfoot Telecommunications Group ("BTG") supports the Federal-State Joint Board on Universal Service's ("Joint Board") recommendation to adopt an interim, emergency cap on the amount of high cost support that competitive eligible telecommunications carriers ("CETCs") receive for each state based on the average level of competitive ETC support distributed in that state in 2006. CETCs are the sole source of the current, explosive growth in the high cost program of the Universal Service Fund ("USF"). Because current CETC support levels are not tied to CETCs' costs of providing services, placing an interim cap on the distribution of such support is an appropriate step to stem the tide of high cost growth until a long-term solution for the high cost support mechanism of the USF can be developed. Failure to cap the growth in CETC funding places the entire USF in jeopardy by making it unsustainable, placing not only telecommunications providers serving rural and insular portions of America at peril, but also places at risk low income consumers, rural health care providers and schools and

libraries that rely on the USF. An interim, emergency cap is appropriate, and the FCC should implement it as soon as possible to ensure the long-term viability of the USF.

I. Introduction and Background

Blackfoot Telecommunications Group ("BTG") is a family of companies under common ownership with Blackfoot Telephone Cooperative, Inc. ("Blackfoot") headquartered in Missoula, Montana. BTG operates a facilities-based ILEC, serving nearly eighteen-thousand lines in some of the most rural portions of western Montana, and a facilities-based CLEC in the Missoula region. BTG provides high quality integrated telecommunications and data services to both business and residential customers. BTG disaggregated its ILEC exchanges in 2002 pursuant to the *Rural Task Force Order*.[1] By disaggregating, BTG is able to better target high cost USF support to those portions of its exchanges that need it the most.

On May 1, 2007, the Joint Board released a Recommended Decision that proposed that the FCC impose an interim, emergency cap on the amount of high-cost support CETCs may receive for each state based on the average level of competitive ETC support distributed in that state since 2006.[2] BTG submits these comments in support of Joint Board's recommendation to place an "interim, emergency cap" on CETC support at 2006 levels.

[1] *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers,* CC Docket Nos. 96-456, 00-256, Fourteenth Report and Order, Twenty Second Order on Reconsideration , and Further Notice of Proposed Rulemaking (rel. May 23, 2001) ("*Rural Task Force Order*"). *See also* 47 CFR § 54.315.
[2] *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service,* WC Docket No. 05-337, CC Docket 96-45, Recommended Decision (rel. May 1, 2007), FCC 07J-1 ("Recommended Decision").

II. The Source of the Ballooning USF, Growth in CETC Support, Must Be Capped Until a Long-Term Solution Can Be Established.

As pointed out by FCC Chairman Kevin J. Martin, CETC support has grown by a rate of 101% per year since 2002.[3] Specifically, in 2002, CETCs received approximately $46.1 million from the USF.[4] In 2003, CETC support grew to $129.6 million.[5] By 2006, CETCs had received an estimated $1 billion in USF support.[6] During the same time period, support for incumbent ETCs remained relatively flat.[7] What is most troubling about this explosive growth is that the support received by CETCs is based on neither the CETC's costs nor costs based on a forward-looking model of providing services. Instead, CETC support is based on the level of support the incumbent ETC receives.[8] This policy is known as the "identical support" rule, and, as noted in the Recommended Decision, is one of the "primary causes of the explosive growth in the fund."[9] While the Commission has gone through extensive rulemakings to ensure that the level of support incumbent ETCs receives is based on either actual, embedded costs in the case of rural carriers and a forward-looking economic model for non-rural carriers,[10] the Commission has implemented a policy which essentially gives-away USF support to CETCs in amounts

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[3] Federal – State Joint Board on Universal Service En Banc Hearing, February 20, 2007, Opening Remarks, FCC Chairman Kevin J. Martin ("Chairman Martin Opening Remarks") at p. 4.
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] *Id. See also,* Recommended Decision, Appendix A, Charts Presented by Chairman Martin at February 2007 En Banc Hearing of the Federal-State Joint Board on Universal Service ("Chairman Martin Statement") at p. 16.
[8] 47 CFR § 54.307.
[9] Recommended Decision at ¶12. Another significant contributor to the explosive growth is the funding of multiple wireless handsets, and indeed wire 'loops', to a single premise. The Commission should continue to consider the funding of only primary lines as part the long-term USF solution.
[10] *See, e.g. Rural Task Force Order* (concluding after extensive analysis by the Rural Task Force, a special FCC advisory committee, that rural, incumbent local exchange carriers should receive USF support based on their actual, embedded costs, subject to a cap); *Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, Ninth Report and order, Eighteenth Order on Reconsideration (1999) (*"Non-Rural Support Order"*) establishing a forward-looking mechanism for non-rural carriers receipt of universal service support).

that are wholly unrelated to the costs or economics of those CETCs that provide the supported services.

This policy is contrary to the existing USF fund-control policies already implemented by the Commission in other USF decisions. As pointed out in the Recommended Decision, caps on USF funds are nothing new for incumbent ETCs.[11] For example, the *Rural Task Force Order* capped the amount of high cost loop support available to rural carriers.[12] Further, the FCC's various access charge reform orders have affectively capped the amount of universal service support incumbent ETCs receive. For example, the amount of interstate access support is currently targeted not to exceed $650 million per year.[13] Support received by non-rural carriers is also affectively capped as non-rural, incumbent ETCs are only eligible to receive USF support to the extent their costs exceed 125% of the national average loop cost.[14] Thus, the Commission's current rules already specifically cap or affectively cap much of the support incumbent ETCs currently receive.

Moreover, other elements of high cost USF support distributed to incumbent ETCs has remained relatively stable over the last several years. As pointed out by Chairman Martin at the February 20, 2007, Joint Board En Banc hearing, high cost USF support for incumbent ETCs has remained relatively flat and has even gone down in

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[11] Recommended Decision at ¶ 5.

[12] *See Rural Task Force Order* at ¶¶ 37-53. The *Rural Task Force Order* re-indexed the amount of high cost loop support rural carriers receives, established a cap on that support, and then implemented a "rural growth factor." The rural growth factor allows the high cost loop portion of the USF to grow by a factor equal to the sum of annual changes in the total number of working loops for rural carriers and the GDP-CPI. *Id. See also* 47 CFR §§ 36.601-604. The "rural growth factor" for 2007 is 0.02517%.

[13] 47 CFR § 54.801.

[14] *See* 47 CFR § 54.309. Currently, non-rural forward-looking support flows to non-rural carriers in only ten states: Alabama, Kentucky, Maine, Mississippi, Montana, Nebraska, South Dakota, Vermont, West Virginia, and Wyoming.

recent years.[15] As noted in the Recommended Decision, local switching support ("LSS") for incumbent ETCs has ranged between $360 million and $384 million annually from 2003 and 2006.[16] Interstate common line support ("ICLS") ranged from $871 million to $953 million between 2003 and 2006, and has remained stable at $950 million for the last two years.[17]

CETCs, on the other hand, have no cap on the amount of USF support they receive. Their sole basis of USF support is based on other companies' actual or forward-looking costs, namely the incumbent ETCs. Placing an interim, emergency cap on CETC funds until long-term, high cost USF reform can be implemented is consistent with existing Commission policy. Accordingly, implementing an interim, emergency cap on CETCs would be a step-towards implementing this Commission's self-imposed guideline of competitive neutrality[18] by treating incumbent ETCs and CETCs equally—i.e. both types of entities would be subject to caps imposed by the FCC's universal service rules. Under the current USF high cost regime, incumbent ETCs and CETCs are not treated equally. As pointed out in the Recommended Decision, incumbent ETCs have equal access obligations in order to receive high cost support; CETCs have no such obligation.[19] Further, incumbent ETCs are subject to rate regulation; CETCs, which are generally wireless providers or competitive local exchange carriers, are not subject to rate

[15] Chairman Martin Statement at p. 4.
[16] Recommended Decision at fn. 19.
[17] *Id.*
[18] Section 254 of the Telecommunications Act of 1996 (the "Act") lists six specific universal service principles. 47 USC § 254(b). The Act also allows the Joint Board and the FCC to implement additional universal service principles. One such principle implemented by the FCC is that of competitive neutrality. *See Federal – State Joint Board on Universal Service,* CC Docket No. 96-45, First Report and Order (rel. May 8, 1997) at ¶ 21.
[19] Recommended Decision at ¶ 6.

regulation.[20] Incumbent ETCs are also generally subject to carrier-of-last resort obligations, while CETCs are generally not.[21] Thus, the Commission should adopt the Joint Board's recommendation to implement an interim cap on CETC USF funding until the Commission implements a long-term solution to high cost USF funding.[22]

Further, BTG recognizes and supports the interim nature proposed in the Recommended Decision. BTG encourages the Commission to address long-term reform of the high cost universal service program as soon as possible, continuing to make the interim cap effective until the Joint Board and the Commission decide on the proper method for long-term reform.

Lastly, BTG is supportive of the two-step methodology proposed by the Recommended Decision whereby CETC support is capped at 2006 levels.[23]

III. Conclusion.

The Commission should adopt the Joint Board's Recommended Decision to impose an interim cap on the amount of high-cost USF support CETCs receive at 2006 levels until the FCC implements a long-term solution to high-cost USF reform. The imposition of such a cap is competitively neutral and consistent with the Commission's existing high cost universal service fund rules.

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[20] *Id.*
[21] *Id.*
[22] BTG agrees with Chairman Martin's position that if a CETC can demonstrate that its costs meet the support threshold in the same manner as the rural provider, the CETC should receive support despite the interim cap. Recommended Decision, Appendix A, Statement of Kevin J. Martin. This would further the principle of competitive neutrality by requiring all high cost USF recipients, not just incumbent ETCs, would receive USF support based on their actual or forward-looking, economic costs. BTG also fully supports the Joint Board's proposal in the Recommended Decision that any comprehensive high cost reform would eliminate the existing identical support rules which base CETC high cost support on an incumbent ETCs costs. Recommended Decision at ¶ 6.
[23] Recommended Decision at ¶ 10-13.

RESPECTFULLY SUBMITTED this 5th day of June, 2007

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